

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM M-23111-2022 (O&M)

Date of Decision: March 23, 2023

Swedeeep Kaur and othersPetitioners

Vs.

State of Punjab and anotherRespondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

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Present:- Mr. Varinder Singh Rana, Advocate for the petitioner.
Mr. Amit Shukla, AAG, Punjab.

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HARKESH MANUJA

By way of present petition filed under Section 482 Cr.P.C., the petitioners pray for quashing of FIR No.22 dated 11.10.2018, under Sections 420, 120-B IPC, registered at Police Station NRI, District SAS Nagar (P-1) along with all consequential proceedings arising therefrom, on the basis of compromise dated 15.07.2021 (P-2).

2. Brief facts of the case are that marriage between petitioner No.1 with Amritpreet Singh i.e. son of complainant/ respondent No.2 was solemnized on 05.11.2016. Unfortunately the couple could not pull on together. Later, upon rejection of VISA of Amritpreet Singh, the FIR in question, implicating the petitioners, alleging fraud came to be registered at the instance of respondent No.2. Petitioner No.1 was though declared as proclaimed offender by the trial Court vide order dated 14.01.2021, however, the same was challenged before this Court vide CRM-M-17705-2022 which came to be allowed vide order dated 16.03.2023.

In a separate but related development, parties i.e. petitioners and respondent No.2, with the intervention of respectables settled their dispute and a compromise deed to this effect was recorded on 15.07.2021.

As per the settlement, petitioners were to pay a sum of Rs.15 lacs to

respondent No.2 and it was further settled that the parties would appear and make statements in the pending litigation so as to render a complete quietus to the entire dispute.

Based on the aforesaid settlement, respondent No.2 even appeared before the trial Court and made a statement on 08.11.2021 regarding withdrawal of her claim arising out of FIR in question and even prayed for compounding of the offence as well as discharge of the petitioners, however, the compounding was declined by the trial Court vide order dated 06.06.2022 while recording that the offence under Section 120B IPC forming part of FIR was non-compoundable. In addition, relying upon the aforesaid compromise dated 15.07.2021, petitioner No.1 as well as Amritpreet Singh even got decree of mutual divorce under Section 13-B of the Hindu Marriage Act, 1955, for short 'the Act' on 01.02.2021 from the Court of Principal Judge, Family Court, SAS Nagar, Mohali.

In view of the aforesaid facts and circumstances, learned counsel for the petitioner submits that once the parties have already settled their differences, and the FIR in question primarily relates to a matrimonial dispute; petitioners having already paid a sum of Rs.15 lacs to complainant/ respondent No.2 made the aforesaid settlement followed by grant of decree of divorce, no useful purpose would be served by keeping the proceedings pending before the trial Court and thus, prays for quashing of the same.

In pursuance to the notice of motion, respondent No.2 stands served as depicted from office report dated 01.02.2023, however, no one has chosen to appear on her behalf.

Learned State counsel opposes the prayer made in the petition while submitting that the present is not a simplicitor case of matrimonial

dispute as there are serious allegations of fraud leveled against petitioner No.1 at the instance of respondent No.2-complainant.

I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made on behalf of the petitioner.

A perusal of the contents of the FIR show that the allegations primarily flow from a matrimonial discord between petitioner No.1 and son of respondent No.2 which came to be settled between them, based on compromise dated 15.07.2021 under which petitioners even paid a sum of Rs.15 lacs to respondent No.2 and a decree of divorce by way of mutual consent was even granted by the Court of Principal Judge, Family Court, SAS Nagar, Mohali. More than that, respondent No.2 even appeared before the trial Court and made a statement, accepting the contents of compromise and also submitted that she does not want to pursue the present FIR.

Strangely enough, having received a sum of Rs.15 lacs, besides having obtained a decree of divorce based on mutual consent under Section 13-B of the Act, and also having appeared before the trial Court in support of the settlement arrived at between the parties, non-appearance of respondent No.2- complainant despite having been served upon with the notice in pursuance to the present petition solely appears to be an attempt to harass the petitioners.

So far, there has been no attempt on the part of respondent No.2 to question the validity and veracity of the compromise arrived at between the parties and thus having drawn benefit under the settlement, respondent No.2 cannot at this stage be permitted to frustrate the relief sought for by the petitioners.

I also do not find much substance in observation of the Trial Court that offence under section 120B IPC is non-compoundable in nature. Language of Section 120-B(1) in IPC denotes that a party to a criminal conspiracy is to be punished in the same manner as if it had abetted such offence. Now it is necessary to have a look at subsection (3) of Section 320 Cr.P.C., which is reproduced hereunder:-

"(3) When an offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) or where the accused is liable under section 34 or 149 of the Indian Penal Code (45 of 1860) may be compounded in like manner."

When punishment for the conspiracy of an offence has been equated with the abetment of that offence and vide section 320(3) of Cr.P.C., it has been allowed to compound the abetment of an offence if offence itself is compoundable, the observation made by the Trial Court in this regard which is much less a reasoning, is meritless.

Further, in **"Jitender Rana and Ors vs. State (NCT of Delhi) and Ors."**, 2007 Criminal Law Journal, 1641 it was held by the High Court of Delhi that Section 120-B IPC pertains to criminal conspiracy to commit an offence. Such criminal conspiracy may be to commit offence of cheating. When the offence of cheating is compoundable, Section 120-B of the IPC r/w Section 420 of IPC becomes compoundable and the Court of Metropolitan Magistrate has power to allow application for compounding of the offence of Section 420 r/w Section 120-B of the IPC. The said decision was even followed by this Court in the case of **"Rajinder Singh Vs. State of Punjab"** bearing CRR No.1825 of 2012, decided on 11.02.2016, and it was held that as the substantive offence of cheating stands compounded,

the proceedings qua offence U/s 120-B IPC cannot go on alone and therefore, both offences stand compounded.

In view of the facts and circumstances narrated hereinabove, relying upon the settlement/ compromise dated 15.07.2021, (P-2) arrived at between the parties, the decree dated 01.02.2021 passed by Principal Judge, Family Court, SAS Nagar, Mohali, granting divorce by mutual consent as well as the statement dated 08.11.2021 made at the instance of respondent No.2, no useful purpose would be served to waste the precious time of the Court by continuing with the proceedings arising out of the aforementioned FIR.

Thus, the petition is allowed. FIR No.22 dated 11.10.2018, under Sections 420, 120-B IPC, registered at Police Station NRI, District SAS Nagar (P-1) along with all consequential proceedings arising therefrom, qua the petitioners, are hereby quashed.

However, the above said order is subject to payment of costs of Rs.50,000/- to be deposited by the petitioner with the Punjab and Haryana High Court Association Lawyer's Family Welfare Fund having Account No.41564846387 with State Bank of India, High Court Branch, Chandigarh, within a period of two weeks from today.

Pending application(s), if any, shall also stand disposed of.

March 23, 2023
sanjay

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>